

Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 SSO-00 NSCE-00 INRE-00 CIAE-00
DODE-00 PM-05 H-01 INR-07 L-03 NSAE-00 NSC-05
PRS-01 SP-02 SS-15 SAB-02 EB-08 DOTE-00 OES-07
SMI-01 EPA-01 /073 W
-----033468 241450Z /53
O 241324Z AUG 77
FM AMEMBASSY PANAMA
TO SECSTATE WASHDC IMMEDIATE 3346

C O N F I D E N T I A L SECTION 1 OF 2 PANAMA 6066

E.O. 11652: GDS
TAGS: PBOR, CFED, SENV, PN, PQ
SUBJECT: TREATY NEGOTIATIONS - OTHER ACTIVITIES - SMITHSONIAN

REF: A. 76 PANAMA 2264, B. 76 STATE 130918, C. STATE 192166

1. AS REQUESTED REF C, THIS AND SEPTTEL TRANSMIT SUGGESTED DRAFT AGREEMENT AND EXCHANGES OF NOTES DEALING WITH SMITHSONIAN TROPICAL RESEARCH INSTITUTE (STRI), AND BARRO COLORADO ISLAND BIOLOGICAL RESERVE (BCI). OUR SUGGESTED APPROACH, AND THESE DRAFTS, HAVE BEEN COORDINATED WITH STRI DIRECTOR RUBINOFF.

2. AS DESCRIBED IN JUNE 2, 1977 RUBINOFF LETTERS TO AMBASSADORS BUNKER AND LINOWITZ, STRI CONSIDERS THAT BCI IS UNIQUE SCIENTIFIC AND ENVIRONMENTAL INTEREST WHICH USG SHOULD SEEK TO PROTECT, AND THAT EVEN STRI CONTINUANCE ON ISTHMUS SHOULD BE CONSIDERED SECONDARY TO THIS, BOTH DURING LIFE OF CANAL TREATY AND THEREAFTER. FURTHER, STRI CONSIDERS FROM CONTACT WITH US ENVIRONMENTAL GROUPS THAT THIS FUNDAMENTAL OBJECTIVE IS A PRIME CONCERN OF THEIRS AS WELL.

3. ACCORDINGLY, WE SUGGEST SEEKING A SEPARATE AGREEMENT BETWEEN USG AND GOP PURSUANT TO INTER-AMERICAN
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NATURE PROTECTION CONVENTION OF 1940, OBLIGATING BOTH GOVERNMENTS TO PROTECT BCI, TO REMAIN IN FORCE SO LONG AS BOTH REMAIN PARTY TO EITHER CANAL TREATY OR NATURE PROTECTION CONVENTION, WITHOUT DIRECT REFERENCE TO STRI IN BODY OF AGREEMENT. EVEN IF STRI PRESENCE TERMINATES AND CANAL TREATY EXPIRES, GOP OBLIGATION TO PROTECT BCI WOULD REMAIN UNTIL SHE DENOUNCED NATURE PROTECTION

CONVENTION AS WELL. THIS MAY BE DENOUNCED UPON ONE YEAR'S NOTICE. BUT PANAMA WOULD THEN FACE THE ONUS OF RENOUNCING NOT MERELY AN AGREEMENT WITH US, BUT WITH OVER A DOZEN OF HER LATIN SISTERS. IN OUR JUDGMENT, WITH WHICH RUBINOFF CONCURS, THIS IS ABOUT THE BEST WE MIGHT REASONABLY HOPE TO PERSUADE PANAMA TO ACCEPT.

4. PURSUANT TO THIS AGREEMENT, WE SUGGEST AN EXCHANGE OF NOTES BY WHICH GOP AND USG DESIGNATE STRI AS CUSTODIAN OF BCI RESERVE AT LEAST UNTIL TERMINATION OF CANAL TREATY. THIS DELIBERATELY MAKES NO REFERENCE TO STRI CONTRACTUAL RELATION WITH GOP--OUR OBJECTIVE WAS TO TIE STRI TO ISLAND FOR LIFE OF TREATY INDEPENDENTLY OF ITS OTHER ACTIVITIES ON ISTHMUS.

5. FINAL SUGGESTED EXCHANGE OF NOTES IS INTENDED TO RECOGNIZE STRI CONTRACTUAL RELATIONS WITH GOP (PANAMA A-24, 2/20/77), AND TO LEGITIMIZE STRI USE OF LANDS AND WATERS (OTHER THAN BCI) BOTH WITHIN CANAL OPERATING AND MILITARY AREAS AND AREAS WHICH WILL REVERT TO PANAMA UNDER TREATY. WE SUGGEST SEEKING GOP OBLIGATION NOT TO TERMINATE THAT RELATIONSHIP DURING LIFE OF CANAL TREATY. RUBINOFF CONSIDERS INFORMALLY THAT, IF PRESSED, HE MIGHT BE WILLING TO FOREGO SUCH OBLIGATION AND RELY ON GOP SELF-INTEREST TO ENSURE STRI CONTINUATION-- HIS OBJECTIVE IS PRIMARILY TO BE ABLE TO ASSURE RESTIVE
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CONGRESSMEN THAT MONIES APPROPRIATED FOR ACTIVITIES HERE WILL BENEFIT FROM A PERIOD OF LEGALLY-GUARANTEED TENURE, RATHER THAN FROM ANY CURRENT EXPECTATION THAT GOP WILL SEEK TO EVICT HIM.

6. DEPT WILL NOTE PARTICULARLY THAT IN DEFINING THE AREA OF BCI RESERVE, WE HAVE FOLLOWED DEFINITION SUGGESTED BY JUNE 2 RUBINOFF LETTER, WHICH INCLUDES NOT ONLY BCI ITSELF BUT ONE ADJACENT PENINSULA SCHEDULED TO REVERT TO PANAMA (RUBINOFF UNDERSTANDS INFORMALLY THAT GOP WILL NOT OBJECT TO THIS), AND THREE PENINSULAS AND SOME SMALL ISLANDS WHICH WILL FALL WITHIN CANAL OPERATING AREA. RUBINOFF ADVISES THAT PANCANAL OBJECTS EVEN TO EXCLUSION OF BCI ITSELF FROM CANAL OPERATING AREA, AND WILL PROBABLY OBJECT STRONGLY TO EXPANDING RESERVE AREA TO INCLUDE THESE PENINSULAS. HOWEVER, OBJECTIVE OF OUR PROPOSED DRAFT AGREEMENT WOULD BE NOT TO PRECLUDE, BUT SIMPLY TO HIGHLIGHT, ANY ACTIONS BY EITHER GOVERNMENT AFFECTING STATUS OF RESERVE. RUBINOFF SAYS SMITHSONIAN WILL ARGUE VERY STRONGLY THAT POINTS SHOULD BE INCLUDED FROM THE BEGINNING IN THE RESERVE, BOTH FOR THIS REASON AND, EQUALLY IMPORTANTLY, TO SECURE GOP

ACKNOWLEDGMENT FROM THE BEGINNING THAT EVEN WHEN CANAL TREATY EXPIRES AND US USE RIGHTS TO POINTS FOR CANAL PURPOSES END, POINTS SHOULD CONTINUE TO BE A PART OF BCI RESERVE. WE FIND HIS ARGUMENT PERSUASIVE, AND HAVE SO SUGGESTED THIS DRAFT. DEPT WILL WISH TO CONSULT WITH ENVIRONMENTAL GROUPS, SMITHSONIAN AND DEPARTMENT OF ARMY REGARDING OUR RECOMMENDATION ON THIS POINT.

7. WE ACKNOWLEDGE THAT THIS PACKAGE IS COMPLEX. THIS ARISES OUT OF EFFORT TO UNTIE PROTECTION OF BCI FROM OBLIGATORY TERMINATION UPON TERMINATION OF CANAL TREATY. WE SUGGEST THAT THIS COMPLEXITY IS A SMALL PRICE TO PAY GIVEN POSSIBLE IMPACT OF ENVIRONMENTAL CONFIDENTIAL

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CONSIDERATIONS ON CONGRESSIONAL ENVIRONMENT FOR TREATY ISSUE AS A WHOLE.

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ACTION ARA-14

INFO OCT-01 ISO-00 SSO-00 NSCE-00 INRE-00 CIAE-00
DODE-00 PM-05 H-01 INR-07 L-03 NSAE-00 NSC-05
PRS-01 SP-02 SS-15 SAB-02 EB-08 DOTE-00 SMI-01
EPA-01 OES-07 /073 W

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FM AMEMBASSY PANAMA

TO SECSTATE WASHDC IMMEDIATE 3347

C O N F I D E N T I A L SECTION 2 OF 2 PANAMA 6066

8. FOLLOWING IS SUGGESTED TEXT OF AGREEMENT REGARDING STATUS OF BCI:

BEGIN QUOTE
PREAMBLE

THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND

THE REPUBLIC OF PANAMA,

RECALLING THAT BOTH ARE PARTIES TO THE CONVENTION
ON NATURE PROTECTION AND WILDLIFE PRESERVATION IN THE
WESTERN HEMISPHERE OF OCTOBER 12, 1940;

DESIRING TO PROMOTE AND ADVANCE THE PURPOSES OF THAT
CONVENTION;

NOTING THAT ARTICLE VI OF THE CONVENTION PROVIDES
THAT THE PARTIES MAY, WHEN CIRCUMSTANCES WARRANT, ENTER
INTO AGREEMENTS WITH ONE ANOTHER IN ORDER TO INCREASE
THE EFFECTIVENESS OF THEIR COLLABORATION TO THIS END;

AWARE OF THE UNIQUE IMPORTANCE TO THE INTERNATIONAL
SCIENTIFIC COMMUNITY OF THE BIOLOGICAL RESERVE LOCATED
AT BARRO COLORADO ISLAND, GATUN LAKE IN THE REPUBLIC
OF PANAMA; AND

CONSIDERING THAT THE PANAMA CANAL TREATY AND RELATED
AGREEMENTS SIGNED THIS DATE BETWEEN THEM MAKE DESIRABLE
A FURTHER AGREEMENT BETWEEN THEM TO ENSURE PRESERVATION
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OF THIS BIOLOGICAL RESERVE;

HAVE AGREED UPON THE FOLLOWING ARTICLES:

ARTICLE I

THE AREA KNOWN AS BARRO COLORADO ISLAND IN GATUN LAKE
IN THE REPUBLIC OF PANAMA, AND THE ADJACENT AREAS KNOWN
AS ORCHID AND POINT SALUD ISLANDS; BOHIO, BUENA VISTA,
FRIJOLES AND PALENQUILLA POINTS; AND SMALLER ISLETS
ADJACENT TO THEM; AS SPECIFICALLY DEFINED AND DELIMITED
IN THE ANNEX TO THIS AGREEMENT, ARE DECLARED TO BE A
NATURE MONUMENT AS DEFINED IN ARTICLE I OF THE
CONVENTION, TO BE KNOWN AS THE BARRO COLORADO NATURE
MONUMENT.

ARTICLE II

THE GOVERNMENTS PLEDGE THEMSELVES TO ENACT, IN
ACCORDANCE WITH THEIR RESPECTIVE NATIONAL LEGISLATIVE
PROCESSES, SUCH LEGISLATION BY EACH OF THEM AS MAY BE
NECESSARY TO ENSURE THE PRESERVATION AND PROTECTION OF
THE SAID NATURE MONUMENT AS ENVISIONED IN THE CONVENTION,
AND TO TAKE NO ACTION WHICH WOULD DEROGATE IN ANY WAY
FROM ITS PROTECTED STATUS EXCEPT AS HEREINAFTER PRO-
VIDED.

ARTICLE III

THE GOVERNMENTS AGREE TO COLLABORATE IN USE OF THIS
NATURE MONUMENT FOR THE PURPOSES OF SCIENTIFIC RESEARCH
AND INVESTIGATION, AND TO ASSIST EACH OTHER'S SCIENTISTS
AND SCIENTIFIC INSTITUTIONS IN CARRYING OUT SUCH ACTIVITIES
IN THE NATURE MONUMENT. THE GOVERNMENTS SHALL AGREE FROM
TIME TO TIME ON SUCH ARRANGEMENTS AS MAY BE MUTUALLY CON-

VENIENT AND DESIRABLE TO FACILITATE SUCH COLLABORATION.

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ARTICLE IV

THE GOVERNMENTS AGREE THAT, CONSISTENT WITH THE PURPOSES OF ARTICLE VI OF THE CONVENTION, THEY SHALL MAKE AVAILABLE TO ALL THE AMERICAN REPUBLICS EQUALLY THROUGH PUBLICATION OR OTHERWISE THE SCIENTIFIC KNOWLEDGE RESULTING FROM THEIR COOPERATIVE EFFORTS TO ESTABLISH AND MAINTAIN THIS NATURE MONUMENT.

ARTICLE V

THE GOVERNMENTS, MINDFUL OF THEIR MUTUAL INTEREST IN THE EFFICIENT OPERATION OF THE PANAMA CANAL, AGREE THAT IN EXECUTING THEIR RESPONSIBILITIES UNDER THE PANAMA CANAL TREATY THEY SHALL TAKE ACCOUNT OF THIS AGREEMENT, IT BEING UNDERSTOOD THAT USE OF THE AREAS INCLUDED IN THE NATURE MONUMENT FOR THE PURPOSE OF MAINTAINING EXISTING FACILITIES RELATED TO THE OPERATION OF THE PANAMA CANAL, OR EXECUTING EXISTING PLANS FOR THE IMPROVEMENT OF THE CAPACITY OF THE CANAL, SHALL NOT BE CONSIDERED TO VIOLATE THE PROTECTED STATUS OF THE NATURE MONUMENT. IN THE EVENT EITHER GOVERNMENT AT ANY TIME CONSIDERS THAT THE EFFICIENT OPERATION OF THE PANAMA CANAL NECESSITATES ANY OTHER ACTION MATERIALLY AFFECTING ANY PART OF THE NATURE MONUMENT, THE GOVERNMENTS AGREE TO CONSULT PROMPTLY AND AGREE AS TO MEASURES NECESSARY FOR THE PROTECTION OF THE OVERALL INTEGRITY OF THE NATURE MONUMENT AND FURTHERANCE OF THE PURPOSES OF THIS AGREEMENT.

ARTICLE VI

THE GOVERNMENTS AGREE THAT THEY SHALL JOINTLY TRANSMIT COPIES OF THIS AGREEMENT TO THE INTER-AMERICAN ECONOMIC AND SOCIAL COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, AND SHALL REQUEST THAT THE LATTER ORGANIZATION NOTIFY THE CONTRACTING PARTIES TO THE CONVENTION OF THIS AGREEMENT PURSUANT TO IT.

ARTICLE VII

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THIS AGREEMENT SHALL ENTER INTO FORCE IMMEDIATELY UPON ITS SIGNATURE BY THE PARTIES, AND SHALL REMAIN IN FORCE SO LONG AS THE GOVERNMENTS ARE PARTY TO THE PANAMA CANAL TREATY, OR TO THE CONVENTION ON NATURE PROTECTION

AND WILDLIFE PRESERVATION IN THE WESTERN HEMISPHERE.

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